

Short Title: GSC Unif. Community Prop. Disp. at Death Act.

A BILL TO BE ENTITLED

AN ACT TO ENACT THE UNIFORM COMMUNITY PROPERTY DISPOSITION AT
DEATH ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 31C of the General Statutes is repealed.

[GSC Staff Note: Redlining in Section 2 of this draft represents changes to the Uniform Act, not current law. GSC staff also made non-redlined changes to conform to the General Statutes numbering system and conventions for internal citations and capitalization.]

SECTION 2. Chapter 30 of the General Statutes is amended by adding a new article

to read:

"Article 5.

"Uniform Community Property Disposition at Death Act.

"§ 30-41. Title.

This ~~{act}~~ Article may be cited as the Uniform Community Property Disposition at Death Act.

"§ 30-42. Definitions.

In this ~~{act}~~ Article, the following definitions apply:

(1) ~~"Community property spouse" means an~~ Community-property spouse. – An
individual in a marriage or other ~~relationship;~~ relationship that satisfies all the
following:

a. ~~Under which community property could be acquired during the~~
~~existence of the relationship; and~~ Community property could be
acquired under the relationship.

b. ~~That~~ The relationship remains in existence at the time of death of either party to the relationship.

- (2) ~~"Electronic" means relating~~ Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (3) ~~"Jurisdiction" means the~~ Jurisdiction. – The United States, a state, a foreign country, or a political subdivision of a foreign country.
- (4) ~~"Partition" means voluntarily~~ Partition. – Voluntarily divide property to which this ~~act~~ Article otherwise would apply.
- (5) ~~"Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity. Person. – Defined in G.S. 28A-1-1.~~
- (6) ~~"Personal representative" includes an executor, administrator, successor personal representative, special administrator, and other person that performs substantially the same function. Personal representative. – Defined in G.S. 28A-1-1.~~
- (7) ~~"Property" means anything that may be the subject of ownership, whether real or personal, tangible or intangible, legal or equitable, or any interest therein. Property. – Defined in G.S. 32C-1-102.~~
- (8) ~~"Reclassify" means change~~ Reclassify. – To change the characterization or treatment of community property to property owned separately by community-property spouses.
- (9) ~~"Record" means information. Record – Information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.~~
- a. ~~Inscribed on a tangible medium; or~~

b. ~~Stored in an electronic or other medium and retrievable in perceivable
form.~~

(10) ~~"Sign" means, with Sign.~~ – With present intent to authenticate or adopt a
~~record;~~ record, to do either of the following:

a. Execute or adopt a tangible ~~symbol;~~ or symbol.

b. Attach to or logically associate with the record an electronic symbol,
sound, or process.

(11) ~~"State" means a State.~~ – Consists of the following:

a. A state of the United States, the District of Columbia, Puerto Rico, the
United States Virgin Islands, or any other territory or insular
possession subject to the jurisdiction of the United States. ~~The term
includes a federally recognized Indian tribe.~~

b. An Indian tribe or band or Alaskan native village that is recognized by
federal law or formally acknowledged by an entity listed in
sub-subdivision a. of this subdivision.

[GSC Staff Note: G.S. 28A-1-1 provides:

§ 28A-1-1. Definitions.

As used in this Chapter, unless the context otherwise requires, the term:

(1) *"Collector" means any person authorized to take possession, custody, or
control of the personal property of the decedent for the purpose of executing
the duties outlined in G.S. 28A-11-3.*

(1a) *"Devisee" means any person entitled to take real or personal property under
the provisions of a valid, probated will.*

(1b) *"Estate proceeding" means a matter initiated by petition related to the
administration, distribution, or settlement of an estate, other than a special
proceeding. There may be more than one estate proceeding within the
administration of a decedent's estate.*

(2) *"Foreign personal representative" means a personal representative appointed
in another jurisdiction, including a personal representative appointed in
another country.*

(3) *"Heir" means any person entitled to take real or personal property upon
intestacy under the provisions of Chapter 29 of the General Statutes.*

(4) *"Mortgage" includes a deed of trust.*

- (4a) *"Party," in the context of a contested or uncontested estate proceeding pursuant to G.S. 28A-2-6, means a party joined as a petitioner or respondent.*
- (4b) *"Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.*
- (5) *"Personal representative" includes both an executor and an administrator, but does not include a collector.*
- (6) *Repealed by Session Laws 2011-344, s. 4, effective January 1, 2012, and applicable to estates of decedents dying on or after that date.*

G.S. 32C-1-102 provides:

§ 32C-1-102. Definitions.

The following definitions apply in this Chapter:

- (1) *Agent. – A person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent's authority is delegated.*
- (2) *Durable. – With respect to a power of attorney, the incapacity of the principal does not terminate the power of attorney.*
- (3) *Electronic. – Relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.*
- (4) *Entity. – A sole proprietorship, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or any other legal or commercial entity whether or not organized for business purposes.*
- (5) *Good faith. – Honesty in fact.*
- (6) *Incapacity. – The inability of an individual to manage property or business affairs because the individual has any of the following statuses:*
- a. *An impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance.*
- b. *Is missing, detained, including incarcerated in a penal system, or outside the United States and unable to return.*
- (7) *Internal Revenue Code. – The Internal Revenue Code of 1986, as amended from time to time. Each reference to a provision of the Internal Revenue Code shall include any successor to that provision.*
- (8) *Person. – An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.*
- (9) *Power of attorney. – A writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.*
- (10) *Reserved.*
- (11) *Principal. – An individual who grants authority to an agent in a power of attorney.*
- (12) *Property. – Anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.*
- (13) *Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.*

- (14) *Sign. – With the present intent to authenticate or adopt a record, (i) to execute or adopt a tangible symbol or (ii) to attach to or logically associate with the record an electronic sound, symbol, or process.*
- (15) *State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.*
- (16) *Stocks and bonds. – Stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.]*

"§ 30-43. Included and excluded property.

(a) Subject to subsection (b) of this section, this ~~act~~ Article applies to all the following property of a community-property spouse, without regard to how the property is titled or held:

- (1) If a decedent was domiciled in this State at the time of ~~death~~: death, all the following property:

a. All or a proportionate part of each item of personal property, wherever located, that was community property under the law of the jurisdiction where the decedent or the surviving community-property spouse was domiciled either when the ~~property~~: community property was acquired or, after acquisition, became community property.

~~1. Was acquired; or~~

~~2. After acquisition, became community property;~~

b. Income, rent, profit, appreciation, or other increase derived from or traceable to property described in sub-subdivision a. of this ~~subdivision; and~~ subdivision.

c. Personal property traceable to property described in sub-subdivisions a. or b. of this ~~subdivision; and~~ subdivision.

- (2) Regardless whether a decedent was domiciled in this State at the time of ~~death~~: death, all the following property:

a. All or a proportionate part of each item of real property located in this State traceable to community property or acquired with community property under the law of the jurisdiction where the decedent or the surviving community-property spouse was domiciled either when the ~~property:~~ community property was acquired or, after acquisition, became community property.

~~1. Was acquired; or~~

~~2. After acquisition, became community property; and~~

b. Income, rent, profit, appreciation, or other increase, derived from or traceable to property described in sub-subdivision a. of this subdivision.

(b) If community-property spouses acquired community property by complying with the law of a jurisdiction that allows for creation of community property by transfer of property to a trust, this ~~act~~-Article applies to the property only to the extent the property is held in the trust or characterized as community property by the terms of the trust or the law of the jurisdiction under which the trust was created.

(c) This ~~act~~-Article does not apply to ~~property that:~~ the following property:

(1) ~~Community property—Property that community-property spouses have partitioned or reclassified; or~~ reclassified.

(2) ~~Is~~ Property that is the subject of a waiver of rights granted by this ~~act~~-Article.

"§ 30-44. Form of partition, reclassification, or waiver.

(a) Community-property spouses domiciled in this State may partition or reclassify property to which this ~~act~~-Article otherwise would apply. The partition or reclassification must be in a record signed by both community-property spouses. Unless both community-property

spouses agree otherwise, partition of community property is presumed to result in each spouse owning a one-half separate property interest in each item of property addressed in the record.

(b) A community-property spouse domiciled in this State may waive a right granted by this ~~act~~ Article only by complying with the law of this State, including this State's choice-of-law rules, applicable to waiver of a spousal property right.

"§ 30-45. Community property presumption.

~~All This Article is presumed to apply to all property acquired by a community-property spouse when domiciled in a jurisdiction where community property then could be acquired by the community-property spouse by operation of law is presumed to be community property.~~ property acquired by the community-property spouse was presumed to be community property under the law of that jurisdiction. This presumption may be rebutted by a preponderance of the evidence.

"§ 30-46. Disposition of property at death.

(a) One-half of the property to which this ~~act~~ Article applies belongs to the surviving community-property spouse of a decedent and is not subject to disposition by the decedent at death.

(b) One-half of the property to which this ~~act~~ Article applies belongs to the decedent and is subject to disposition by the decedent at death.

Alternative A

(c) The property that belongs to the decedent under subsection (b) of this section is not subject to the ~~elective share right of the surviving community-property spouse.~~ surviving community-property spouse's right to petition for an elective share under Article 1A of this Chapter or the surviving community-property spouse's right to elect a life estate under Article 8 of Chapter 29 of the General Statutes.

Alternative B

(c) ~~For the purpose of calculating the augmented estate of the decedent and the elective share right of the surviving community property spouse;~~

(1) ~~Property under subsection (a) of this section is deemed to be property of the surviving community property spouse; and~~

(2) ~~Property under subsection (b) of this section is deemed to be property of the decedent.~~

End of Alternatives

(d) ~~[Except for the purpose of calculating the augmented estate of the decedent and the elective share right of the surviving community property spouse, this]~~ ~~[This]~~ This section does not apply to property transferred by right of survivorship or under a revocable trust or other nonprobate transfer.

(e) This section does not limit the right of a surviving community-property spouse to ~~[insert statutory allowances].~~ the year's allowance under Article 4 of this Chapter or the property exemptions under Article X of the North Carolina Constitution and Article 16 of Chapter 1C of the General Statutes.

(f) If at death a decedent purports to transfer to a third person property that, under this section, belongs to the surviving community-property spouse and transfers other property to the surviving community-property spouse, this section does not limit the authority of the court under other law of this state to require that the community-property spouse elect between retaining the property transferred to the community-property spouse or asserting rights under this ~~[act].~~ Article.

[Uniform Law Commission (ULC) Legislative Note: A traditional elective-share state should adopt Alternative A and adopt the language beginning with "This" in subsection (d).

An augmented-estate, elective-share state whose statute does not address rights in community property adequately should adopt Alternative B and adopt the language beginning with "Except" in subsection (d). In subsection (e), a state should insert the statutory reference to the applicable allowances, such as homestead, exempt property, or family.]

[GSC Staff Note: Alternative A is comparable to current G.S. 31C-3:

§ 31C-3. Disposition of community property upon death.

Upon death of a married person, one half of the property to which this Chapter applies is the property of the surviving spouse and is not subject to testamentary disposition by the decedent or distribution under the laws of succession of this State. One half of that property is the property of the decedent and is subject to testamentary disposition or distribution under the laws of succession of this State. With respect to property to which this Chapter applies, the one half of the property of the decedent is not subject to the surviving spouse's right to petition for an elective share under the provisions of Article 1A of Chapter 30, and is not subject to the right to elect a life estate under the provisions of Article 8 of Chapter 29.]

[GSC Staff Note: Below are some preliminary comments from the Real Property Section of the NCBA:

Section 6 needs review by the domestic bar and the estate section. Alternative A seems much simpler. Subsection f seems to be asking for litigation and disputes – keep it simple and simply say the transfer is ineffective as to the share belonging to the surviving community-property spouse.]

[GSC Staff Note: The EP&FL Section of the NCBA believes that Alternative A should be adopted.]

"§ 30-47. Other remedies available at death.

(a) At the death of a community-property spouse, the surviving community-property spouse or a personal representative, heir, or nonprobate transferee of the decedent may assert a right based on ~~an act of~~ either of the following acts:

(1) ~~The~~ An act of the surviving community-property spouse or decedent during the marriage or other relationship under which community property then could be ~~acquired~~; or acquired.

(2) ~~The~~ An act of the decedent that takes effect at the death of the decedent.

(b) In determining a right under subsection (a) of this section and corresponding remedy, ~~the court~~; court shall apply equitable principles and may

~~(1) Shall apply equitable principles; and~~

~~(2) May~~ consider the community property law of the jurisdiction where the decedent or surviving community-property spouse was domiciled when the property was acquired or enhanced.

"§ 30-48. Right of surviving community-property spouse.

(a) The surviving community-property spouse of ~~the a~~ decedent may assert a claim for relief with respect to a right under this ~~act~~ Article in accordance with the ~~following rules:~~ following:

(1) ~~In an action~~ With respect to a claim for relief asserting a right in or to property, the surviving community-property spouse ~~must:~~ must do either of the following:

a. ~~Not later than [three years] after the death of the decedent,~~ Within one year of the decedent's date of death, commence an action in superior court against an heir, devisee, or nonprobate transferee ~~of the decedent~~ that is in possession of the ~~property;~~ or property.

b. ~~Not later than [six months] after appointment of the personal representative of the decedent, send a demand in a record to the personal representative.~~ Within six months after the issuance of letters testamentary or letters of administration in connection with the decedent's testate or intestate proceeding, do both of the following:

1. File a petition with the clerk of superior court or commence an action before a judge of superior court in the county in which the primary administration of the decedent's estate lies. A petition with the clerk of superior court shall be filed as an estate proceeding, and the proceeding shall be conducted in accordance with the procedures of Article 2 of Chapter 28A of the General Statutes.

2. Mail or deliver a copy of the pleading to the personal representative of the decedent's estate.

(2) ~~In an action other than an action~~ With respect to a claim for relief other than
a claim under subdivision (a)(1) of this section, the surviving
community-property spouse ~~must~~ must do either of the following:

a. ~~Not later than [six months] after appointment of the personal~~
~~representative of the decedent, send a demand in a record to the~~
~~personal representative; or~~ If a personal representative of the
decedent's estate is not appointed, commence an action in superior
court within one year of the decedent's date of death.

b. ~~If a personal representative is not appointed, commence the action not~~
~~later than [three years] after the death of the decedent.~~ Satisfy the
procedural requirements of sub-subdivision (a)(1)b. of this section.

(3) The incapacity of the surviving spouse **does** not toll the time for commencing
an action or filing a petition as provided in this section.

(b) Unless a timely demand is made under sub-subdivision (a)(1)b. or ~~(a)(2)a.~~ (a)(2)b. of
this section, the personal representative may distribute the assets of the decedent's estate without
personal liability for a community-property spouse's claim under this ~~act~~ Article.

[ULC Legislative Note: A state should insert in subsection (a)(1)(A) and (2)(B) and Section 9(1)(A) and (2)(B) the time for asserting a claim to a nonprobate asset, probating a will, or challenging a revocable trust and in subsection (a)(1)(B) and (2)(A) and Section 9(1)(B) and (2)(A) the time for asserting a claim in a probate proceeding.]

[GSC Staff Note: The EP&FL Section of the NCBA commented, in part:

The subcommittee's recommendations to this section address (i) statute of limitations, (ii) jurisdiction, and (iii) tolling of the statute of limitations.

First, regarding the statute of limitations, the subcommittee considered the public interest in quickly and efficiently settling estates to recommend that a statute of limitations of one year after the decedent's date of death apply to a surviving spouse's claim to recover community property or other claim involving community property (such as a right of reimbursement). In cases in which letters testamentary or letters of administration are issued, the subcommittee recommends a statute of limitations of six months after the date

letters are issued, which corresponds to the statute of limitations applicable to a surviving spouse's claim for elective share.

Second, regarding jurisdiction and procedure, the subcommittee concluded that the clerk of superior court's jurisdiction should not be exclusive. A party asserting a claim against an estate may so do by either (i) a civil action in the superior court trial division, or (ii) an estate proceeding before the clerk of court (subject to the right of any party to transfer the matter to superior court). The subcommittee weighed whether a claim for relief against an estate under Section 31E-8 or Section 31E-9 [G.S. 30-48 and G.S. 30-49] should be an estate proceeding within the exclusive jurisdiction of the clerk of court or if parties should have the right to file in (or transfer to, in the case of a respondent) the superior court trial division. The subcommittee concluded that the clerk of court's jurisdiction over proceedings to enforce rights under the UCPDDA should be non-exclusive with the superior court trial division. The proposed revision clarifies the proper jurisdiction and venue—superior court trial division or clerk of superior court of the county in which the estate administration lies.

Third, in the interest of efficiently resolving estates, the subcommittee recommends that incapacity of the surviving spouse not toll the applicable statute of limitations similar to the elective share statute.]

[GSC Staff Note: G.S. 1-301.3 and G.S. 7A-251 provide:

§ 1-301.3. Appeal of trust and estate matters determined by clerk.

(a) *Applicability.* – This section applies to matters arising in the administration of trusts and of estates of decedents, incompetents, and minors. G.S. 1-301.2 applies in the conduct of a special proceeding when a special proceeding is required in a matter relating to the administration of an estate.

(b) *Clerk to Decide Estate Matters.* – In matters covered by this section, the clerk shall determine all issues of fact and law. The clerk shall enter an order or judgment, as appropriate, containing findings of fact and conclusions of law supporting the order or judgment.

(c) *Appeal to Superior Court.* – A party aggrieved by an order or judgment of the clerk may appeal to the superior court by filing a written notice of the appeal with the clerk within 10 days of service of the order on that party. If a timely motion is made by any party for relief under Rule 52(b) or 59 of the Rules of Civil Procedure, the 10-day period for taking appeal is tolled as to all parties. Upon entry of an order disposing of the motion, the 10-day period then runs as to each party from its service upon that party. The notice of appeal shall contain a short and plain statement of the basis for the appeal. Unless otherwise provided by law, a judge of the superior court or the clerk may issue a stay of the order or judgment upon the appellant's posting an appropriate bond set by the judge or clerk issuing the stay. While the appeal is pending, the clerk retains authority to enter orders affecting the administration of the estate, subject to any order entered by a judge of the superior court limiting that authority.

(d) *Duty of Judge on Appeal.* – Upon appeal, the judge of the superior court shall review the order or judgment of the clerk for the purpose of determining only the following:

(1) Whether the findings of fact are supported by the evidence.

(2) Whether the conclusions of law are supported by the findings of facts.

(3) Whether the order or judgment is consistent with the conclusions of law and applicable law.

It is not necessary for a party to object to the admission or exclusion of evidence before the clerk in order to preserve the right to assign error on appeal to its admission or exclusion. If the judge finds prejudicial error in the admission or exclusion of evidence, the judge, in the judge's

discretion, shall either remand the matter to the clerk for a subsequent hearing or resolve the matter on the basis of the record. If the record is insufficient, the judge may receive additional evidence on the factual issue in question. The judge may continue the case if necessary to allow the parties time to prepare for a hearing to receive additional evidence. If the judge retains jurisdiction and either excludes evidence that was considered by the clerk or considers new evidence that was not considered by the clerk, then the judge shall review issues of fact and law de novo based on the record from the hearing below, as modified by the court, and any new evidence heard by the court.

(e) *Remand After Disposition of Issue on Appeal.* – The judge, upon determining the matter appealed from the clerk, shall remand the case to the clerk for such further action as is necessary to administer the estate.

(f) *Recording of Estate Matters.* – In the discretion of the clerk or upon request by a party, all hearings and other matters covered by this section shall be recorded by an electronic recording device. A transcript of the proceedings may be ordered by a party, by the clerk, or by the presiding judge. If a recordation is not made, the clerk shall submit to the superior court a summary of the evidence presented to the clerk. (1999-216, s. 1; 2011-344, s. 1; 2021-53, s. 3.5.)

§ 7A-251. Appeal from clerk to judge.

(a) In all matters properly cognizable in the superior court division which are heard originally before the clerk of superior court, appeals lie to the judge of superior court having jurisdiction from all orders and judgments of the clerk for review in all matters of law or legal inference, in accordance with the procedure provided in Chapter 1 of the General Statutes.

(b) In all matters properly cognizable in the district court division which are heard originally before the clerk of superior court, appeals lie to the judge of district court having jurisdiction from all orders and judgments of the clerk for review in all matters of law or legal inference, in accordance with the procedure provided in Chapter 1 of the General Statutes. (1965, c. 310, s. 1; 1995, c. 88, s. 8.)]

"§ 30-49. Right of heir, devisee, or nonprobate transferee.

An heir, devisee, or nonprobate transferee of a deceased community-property spouse may assert a claim for relief with respect to a right under this ~~act~~ Article in accordance with the following rules: following:

(1) ~~In an action~~ With respect to a claim asserting a right in or to property, the heir, devisee, or nonprobate transferee ~~must~~ must do either of the following:

a. ~~Not later than [three years] after the death of the decedent,~~ Within one year of the decedent's date of death, commence an action in superior court against the surviving community-property spouse ~~of the decedent~~ who is in possession of the ~~property;~~ or property.

b. ~~Not later than [six months] after appointment of the personal representative of the decedent, send a demand in a record to the personal representative.~~ Satisfy the procedural requirements of G.S. 30-48(a)(1)b.

(2) ~~In an action other than an action~~ With respect to a claim for relief other than a claim under subdivision (1) of this section, the heir, devisee, or nonprobate transferee ~~must~~ must do either of the following:

a. ~~Not later than [six months] after the appointment of the personal representative of the decedent, send a demand in a record to the personal representative; or~~ If a personal representative of the decedent's estate is not appointed, commence an action in superior court within one year of the decedent's date of death.

b. ~~If a personal representative is not appointed, commence the action not later than [three years] after the death of the decedent.~~ Satisfy the procedural requirements of G.S. 30-48(a)(1)b.

(3) The incapacity of the heir, devisee, or nonprobate transferee **does** not toll the time for commencing an action or filing a petition as provided in this section.

[GSC Staff Note: The EP&FL Section of the NCBA commented, in part:

The subcommittee recommends that the procedures to enforce the rights of an heir, devisee or nonprobate transferee mirror the procedures to enforce the rights of the surviving community-property spouse from which the rights of the heir, devisee or nonprobate transferee emanated.]

"§ 30-50. Protection of third person.

(a) With respect to property to which this ~~[act]~~ Article applies, a person is not liable under this ~~[act]~~ to the extent the person: Article if all the following apply:

(1) ~~Transacts~~ The person transacts in good faith and for ~~value~~ value with either
of the following:

- a. ~~With a community property spouse; or~~ A community-property spouse.
- b. After the death of the decedent, ~~with a surviving community-property~~
spouse, personal representative, heir, devisee, or nonprobate transferee
of the ~~decedent~~; and decedent.

(2) ~~Does~~ The person does not know or have reason to know that the other party
to the transaction is exceeding or improperly exercising the party's authority.

(b) Good faith under subdivision (a)(1) of this section does not require the person to
inquire into the extent or propriety of the exercise of authority by the other party to the
transaction.

(c) With respect to real property to which this Article applies, a lien creditor or a
purchaser for value of the property is not liable under this Article unless, before the lien was
acquired or the purchase was made, the community-property spouses gave notice in a registered
instrument of their intention for this Article to apply to the property. Priority among this
registered instrument and other registered instruments is governed by G.S. 47-18.

[GSC Staff Note: The Connor Act of 1885 is codified as G.S. 47-18, which provides:

§ 47-18. Conveyances, contracts to convey, options, and leases of land.

(a) No (i) conveyance of land, (ii) contract to convey, (iii) option to purchase or convey,
(iv) lease of land for more than three years, (v) right of first refusal, or (vi) right of first offer is
valid to pass any property interest as against lien creditors or purchasers for a valuable
consideration from the donor, bargainor, or lessor but from the time of its registration in the
county where the land lies, or if the land is located in more than one county, then in each county
where any portion of the land lies to be effective as to the land in that county. Unless otherwise
stated either on the registered instrument or on a separate registered instrument duly executed
by the party whose priority interest is adversely affected, (i) instruments registered in the office
of the register of deeds have priority based on the order of registration as determined by the time
of registration, and (ii) if instruments are registered simultaneously, then the instruments are
presumed to have priority determined as follows:

- (1) The earliest document number set forth on the registered instrument.
- (2) The sequential book and page number set forth on the registered instrument
if no document number is set forth on the registered instrument.

The presumption created by this subsection is rebuttable.

(b) This section shall not apply to contracts, leases or deeds executed prior to March 1, 1885, until January 1, 1886; and no purchase from any such donor, bargainor or lessor shall avail or pass title as against any unregistered deed executed prior to December 1, 1885, when the person holding or claiming under such unregistered deed shall be in actual possession and enjoyment of such land, either in person or by his tenant, at the time of the execution of such second deed, or when the person claiming under or taking such second deed had at the time of taking or purchasing under such deed actual or constructive notice of such unregistered deed, or the claim of the person holding or claiming thereunder. (Code, s. 1245; 1885, c. 147, s. 1; Rev., s. 980; C.S., s. 3309; 1959, c. 90; 1975, c. 507; 2003-219, s. 2; 2005-212, s. 2; 2021-91, s. 10.)]

"§ 30-51. Principles of law and equity.

The principles of law and equity supplement this ~~act~~ Article except to the extent inconsistent with this ~~act~~ Article.

"§ 30-52. Uniformity of application and construction.

In applying and construing this ~~uniform act~~ Article, a court shall consider the promotion of uniformity of the law among jurisdictions that enact ~~it~~ the Uniform Community Property Disposition at Death Act."

SECTION 3. G.S. 28A-2-4 reads as rewritten:

"§ 28A-2-4. Subject matter jurisdiction of the clerk of superior court in estate proceedings.

(a) The clerks of superior court of this State, as ex officio judges of probate, ~~shall have~~ original jurisdiction of estate proceedings. Except as provided in subdivision (4) of this subsection, the jurisdiction of the clerk of superior court is exclusive. Estate proceedings include, but are not limited to, the following:

(1) Probate of wills.

(2) Granting and revoking of letters testamentary and letters of administration, or other proper letters of authority for the administration of estates.

(3) Determination of the elective share for a surviving spouse as provided in G.S. 30-3.1.

(4) Proceedings to ascertain heirs or devisees, to approve settlement agreements pursuant to G.S. 28A-2-10, to determine questions of construction of wills, to determine priority among creditors, to determine whether a person is in possession of property belonging to an estate, to order the recovery of property of the estate in possession of third parties, to determine a claim for relief regarding the disposition of community property at death as provided in Article 5 of Chapter 30 of the General Statutes, and to determine the existence or nonexistence of any immunity, power, privilege, duty, or right. Any party or the clerk of superior court may file a notice of transfer of a proceeding pursuant to this subdivision to the Superior Court Division of the General Court of Justice as provided in G.S. 28A-2-6(h). In the absence of a transfer to superior court, Article 26 of Chapter 1 of the General Statutes ~~shall apply~~ applies to an estate proceeding pending before the clerk of superior court to the extent consistent with this Article.

(b) Nothing in this section ~~shall affect~~ affects the right of a person to file an action in the Superior Court Division of the General Court of Justice for declaratory relief under Article 26 of Chapter 1 of the General Statutes. In the event that either the petitioner or the respondent in an estate proceeding requests declaratory relief under Article 26 of Chapter 1 of the General Statutes, either party may move for a transfer of the proceeding to the Superior Court Division of the General Court of Justice as provided in Article 21 of Chapter 7A of the General Statutes. In the absence of a removal to superior court, Article 26 of Chapter 1 of the General Statutes ~~shall apply~~ applies to an estate proceeding to the extent consistent with this Article.

(c) Without otherwise limiting the jurisdiction of the Superior Court Division of the General Court of Justice, the clerk of superior court ~~shall~~ does not have jurisdiction under subsection (a) or (b) of this section or G.S. 28A-2-5 of the following:

- (1) Actions by or against creditors or debtors of an estate, except as provided in Article 19 of this Chapter.
- (2) Actions involving claims for monetary damages, including claims for breach of fiduciary duty, fraud, and negligence.
- (3) Caveats, except as provided under G.S. 31-36.
- (4) ~~Proceeding~~ Proceedings to determine proper county of venue as provided in G.S. 28A-3-2.
- (5) Recovery of property transferred or conveyed by a decedent with intent to hinder, delay, or defraud creditors, pursuant to G.S. 28A-15-10(b).
- (6) Actions for reformation or modification of wills under Article 10 of Chapter 31 of the General Statutes."

SECTION 4. If a provision of this ~~act~~ act or its application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.

SECTION 5. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the Uniform Community Property Disposition at Death Act and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

SECTION 6. If a right with respect to property to which this ~~act~~ act applies is acquired, extinguished, or barred on the expiration of a limitation period that began to run under another statute before ~~[the effective date of this act]~~, the effective date of this act, that statute continues to apply to the right even if the statute has been repealed or superseded by this ~~act~~ act.

SECTION 7. This act becomes effective October 1, 2023. Except as provided in **Section 6** of this act, this ~~act~~ act applies to a judicial proceeding ~~with respect to property to~~

- 1 ~~which this [act] applies commenced on or after [the effective date of this [act]],~~ that date,
- 2 regardless of the date of death of the decedent.